

The sale of gas or gas services in Illinois is subject to taxation under the Gas Revenue Tax Act. See 86 Ill. Adm. Code 470.110 & 470.145. (This is a GIL.)

February 26, 2001

Dear xXXXX:

This letter is in response to your letter dated January 12, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Our Client leases Illinois landfills and collects the methane gas (biomass) that is produced by the decomposing garbage. Our Client will then sell the biomass to a utility. The utility then flares the gas and produces electricity.

The production of electricity through the flaring of biomass is an environmentally friendly process and is encouraged by the federal government through income tax credits.

We understand that the Retailer's Occupation Tax and Use Tax (sales taxes) do not apply to the sale of natural gas. See Private Letter Ruling No. ST-99-0118-GIL. However, is the sale of biomass gas in Illinois subject to the Illinois Gas Revenue Tax Act or any other sales tax?

Thank you for your assistance.

The Illinois Retailers' Occupation Tax and Use Tax (sales taxes) do not generally apply to the sale of methane gas. However, the sale of gas or gas services in Illinois is subject to taxation under the Gas Revenue Tax Act (35 ILCS 615/1 et seq.).

The Gas Revenue Tax Act imposes a tax upon persons engaged in the business of distributing, supplying, furnishing, or selling gas to persons for use or consumption and not for resale. The Department considers the sale of methane gas through a pipeline to be subject to Gas Revenue Tax liability. The tax is imposed either at the rate of 2.4 cents per therm of all gas which is so distributed, supplied, furnished, sold, or transported to or for each customer in the course of such business, or 5 percent of the gross receipts received from each customer from such business, whichever is the lower rate as applied to each customer for that customer's billing period. See the enclosed copy of 86 Ill. Adm. Code 470.110 and 470.145.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
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TDC:msk
Enc.